IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 221 OF 2006

1. Pandharinath Dharma Patil
and anr. ....Applicants.

V/s

The State of Maharashtra
(At the instance of Mumbra
Police Station, Dist. Thane) ....Respondent
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Mr. A.P. Mundargi i/b P.P. Runwal for the applicants.
Mr. R.Y. Mirza, APP for the State
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CORAM: V.M. KANADE, J.
DATE: 10th March, 2006

P.C:

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. The applicants were arrested in connection with C.R. No.I-43/2005 registered at Mumbra Police Station for the offence punishable under sections 147, 148, 149, 302, 323, 452, 336, 427 and 504 of the Indian Penal Code.

3. The case of the complainant was that about 13 to 14 people entered her house and all of them assaulted her husband and when she tried to intervene, she was also assaulted by some of the accused. As a result of the said assault, her husband died. The material on

record indicates that the deceased was a history sheeter and he had been convicted by the Court and, thereafter, his appeal was admitted and he was released on bail during the pendency of the appeal. Out of the 16 accused, 13 accused have been released on bail. Some of the accused are released on bail by this Court.

4. The learned Counsel appearing on behalf of the applicants submitted that the case of Pandharinath and the other accused who were released on bail is similar and is seeking parity so far as applicant No.1 is concerned. He invited my attention to the FIR in which the complainant had stated that the applicant No.1 had scythe in his hand. However, she has not stated that the applicant No.1 assaulted the deceased. She has stated that the applicant No.2 assaulted the deceased with knife and one Gautam Ziprya Patil assaulted the deceased with sword on the head and other parts of the body. Considering this statement of the complainant who was an eye witness to the said incident, in my view, the applicant No.1 is entitled to be released on bail in view of the fact that the other accused who have played more or less the same role have been released on bail. The other accused who have played the same role have been released by

this court by order dated 13/9/2005 and 18/10/2005. Thus the case based on the ground of parity is made out so far as applicant No.1 is concerned.

5. However, there is sufficient evidence against the applicant No.2. His application for bail is, therefore, rejected.

6. The applicant No.1 be released on bail in the sum of Rs. 5000/- with one or two sureties in the like amount. He shall not enter the village Khidkali, Dombivli, District Thane. He shall report to the nearest Police Station from his new residence. He shall furnish his new address to the Jail Superintendent before his release.

7. Application is accordingly disposed of.

V.M. KANADE, J.